



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Carolina Chain and Cable, Inc.

File: B-252485

Date: April 23, 1993

DIGEST

Claimant may be paid on a quantum valebant basis for materials shipped to the Navy without a written contract where the record supports the conclusion that the government received and accepted the materials; the purchase would have been permissible if formal procedures had been followed; the claimant acted in good faith; and the amount claimed represents the reasonable value of the benefit received.

DECISION

Carolina Chain and Cable, Inc., appeals our Claims Group's settlement disallowing the company's claim for \$2,530.00 in payment for goods allegedly delivered to the Navy without a valid contract. The Claims Group agreed with the Navy that there was insufficient evidence in the record that the Navy actually received the goods. We reverse the settlement, and we authorize payment to Carolina Chain on a quantum valebant basis.

Carolina Chain claims it delivered 500 units of stainless steel wire rope to the Navy's Shore Intermediate Maintenance Activity (SIMA) in July 1991. An enlisted Navy member at SIMA signed a delivery receipt from the Wilson Trucking Corporation on July 11 acknowledging receipt of the materials.

On July 31, Carolina Chain submitted an invoice to SIMA requesting payment of \$2,530.00 for the wire. The invoice contains a blanket purchase order number assigned by SIMA to Carolina Chain, a call number, a description of the items shipped, the quantity shipped, and a price. The invoice also includes the notation "PRODUCT SHIPPED IN BY MISTAKE--TO BE PAID FOR--ALREADY USED--PER CONVERSATION W/PATTY THOMPSON." The Supply Officer at SIMA suggests that the "mistake" noted on the invoice refers to Carolina Chain's apparent error in delivering wire to SIMA that she suspects was ordered on an expedited basis by another activity--the wire is of a type and size commonly used by the Navy--along with an expedited order she had placed with the company.

The Supply Officer states that she last saw the wire on the dock, and that it was so large that it is very unlikely that it was stolen.

According to an official of Carolina Chain, when SIMA informed the company of the error, Carolina Chain offered to pay for SIMA to send the wire back. In February 1992, the installation supply officer advised Carolina Chain that personnel could not find the wire at the activity. Obviously, SIMA could not return the wire. Since SIMA had no record of the wire's purchase, the Navy denied payment. The matter was then raised with our Claims Group, which agreed with the Navy.

Our Office may authorize payment on a quantum valebant basis (the reasonable value of goods sold and delivered) to a firm that did not have a contract with the government if the government received and accepted the benefit; the goods could have been procured under proper procedures; the party seeking payment acted in good faith; and the amount claimed represents the reasonable value of the benefit received. 63 Comp. Gen. 579 (1984). The only issue here is whether the Navy received and accepted the material and thus received a benefit.

After reviewing the record and discussing the matter with cognizant officials at both SIMA and Carolina Chain, it is clear that the wire was delivered to SIMA and that a Navy member received and accepted it. The Navy does not dispute that the signature on the Wilson Trucking receipt acknowledging receipt of the wire is that of a Navy member.¹ At least one official at SIMA has acknowledged having seen the wire on the shipping dock.

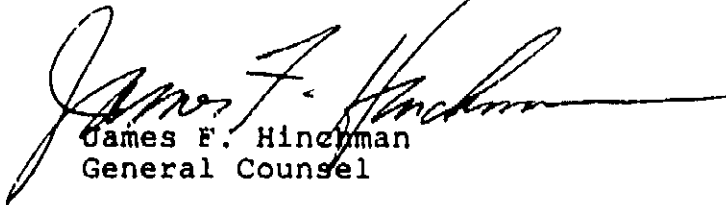
Nevertheless, the events following delivery of the wire to the Navy are not entirely clear. Neither the Navy nor the claimant has been able to produce conclusive evidence that the Navy actually used the wire. However, under the particular circumstances of this case, we believe it would be placing an impossible burden on Carolina Chain to produce such evidence, since the wire was under the Navy's control once the agency accepted delivery.

In our view, the only reasonable conclusion from SIMA's failure to find it 6 months after delivery is that the wire simply had been retrieved and used by the Navy activity that had ordered it, or by some other activity. As stated above, the missing wire is the kind commonly used by the Navy, and it was unlikely to have been stolen. Indeed, it appears

¹Nothing in the record indicates that the Navy ever questioned the member about the delivery.

that the wire was used before Carolina Chain submitted the invoice, according to the notation on the invoice. In this respect, the Supply Officer suggests that the "Patty Thompson" mentioned is Petty Officer Thompson, but we understand that the Navy never questioned the individual about the notation in the course of investigating Carolina Chain's claim.

Since the record thus supports the Navy's receipt of the wire, and indicates that the Navy actually used it instead of arranging for the wire's return as requested, Carolina Chain's claim for \$2,530 may be paid on a quantum valebant basis. The Claims Group's settlement is reversed.


James F. Hinchman
General Counsel